

§§ 622.83–622.100 [Reserved]

**Subpart D—Rules and Procedures  
Applicable to Formal Investigations**

**§ 622.101 Definitions.**

Unless noted otherwise, the definitions set forth in § 622.2 of subpart A shall apply to this subpart.

**§ 622.102 Scope.**

The rules in this subpart apply to formal investigations initiated by order of the Board and pertain to the exercise of powers specified in section 5.37 of the Act. These rules do not restrict or in any way affect the authority of the FCA, including but not limited to the powers enumerated in section 5.37 of the Act, to conduct examinations of System institutions.

**§ 622.103 Formal investigations are confidential.**

Information or documents obtained or testimony recorded in the course of a formal investigation shall be confidential and shall be disclosed only in accordance with the provisions of 12 CFR part 602.

**§ 622.104 Order to conduct formal investigation.**

A formal investigation begins with the issuance of an order by the Board. The order shall designate the person or persons who will conduct the investigation, issue, revoke, quash or modify subpoenas and subpoenas duces tecum, take or cause to be taken depositions, administer oaths, and receive affirmations as to any matter under investigation by the FCA. Upon application and for good cause shown, the Board may limit, modify, or withdraw the order at any stage of the proceeding.

**§ 622.105 Conduct of investigation.**

(a) *Review of order.* Any person who is compelled or requested to furnish testimony, documentary evidence, or other information with respect to any matter under formal investigation shall upon request be shown the order initiating such investigation.

(b) *Right to counsel.* Any person who, in a formal investigation, is compelled

to appear and testify or who appears and testifies by request or permission of the Board may be accompanied, represented, and advised by counsel. The right to be accompanied, represented, and advised by counsel shall mean the right of a person testifying to have an attorney present at all times while testifying and to have this attorney:

(1) Advise such person before, during and after the conclusion of testimony;

(2) Question such person briefly at the conclusion of testimony to clarify any of the answers given; and

(3) Make summary notes during the testimony solely for the use of such person.

(c) *Appearance.* The provisions of § 622.3 are applicable to this subpart.

(d) *Exclusion.* (1) Any person who has given or will give testimony, and counsel representing such person, may be excluded from the taking of testimony of any other witness in the discretion of the designated FCA representative conducting the investigation.

(2) The designated FCA representative conducting the investigation shall report to the Board any instances where any person has been guilty of dilatory, obstructionist, egregious, contemptuous, contumacious or other unethical or improper conduct during the course of the proceeding or any other instance involving a violation of these rules. The Board may thereupon take such action as the circumstances may warrant, including exclusion of the offending individual or individual from participation in the proceeding.

**§ 622.106 Service of subpoena and payment of witness fees.**

(a) *Service.* A subpoena may be served upon the person named therein by personal service or certified mail with a return receipt to the last known address of the person. Witnesses who are subpoenaed shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. The fees and mileage need not be tendered at the time a subpoena is served.

(b) *Motions to quash.* Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such